

IN THE MATTER OF	:	BEFORE THE
<b>S&amp;C REALTY, LLC &amp; ANIMAL</b>	:	HOWARD COUNTY
<b>HOSPITAL AT GLENWOOD, INC.</b>	:	BOARD OF APPEALS
Petitioner	:	HEARING EXAMINER
	:	BA Case No. 17-009C

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**DECISION AND ORDER**

On June 26, 2017, the undersigned, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, heard the Conditional Use petition of S&C Realty, LLC & Animal Medical Hospital at Glenwood, Inc., (Petitioner) to expand an approved animal hospital, dog, kennel, and pet groom facility conditional use in an RR-DEO (Rural Residential - Density Exchange Option), zoning district, filed pursuant to Howard County Zoning Regulations (HCZR) § 131.0.N.31.

Petitioner certified to compliance with the notice and posting requirements of the Howard County Code. The Hearing Examiner viewed the subject property as required by the Hearing Examiner Rules of Procedure. Stuart Scheinberg and Charles Crovo testified in support of the petition. No one appeared in opposition to the petition.

**A Preliminary Matter**

During the hearing, Petitioner introduced into evidence Exhibit 1, a Landscape Plan intended to respond to comments in the technical staff report (TSR). Hearing Examiner Rule 9.4 requires a Petitioner who proposes an amendment during the course of the proceedings to submit the amendment as an exhibit. The Hearing Examiner determined the amendment was not substantive within the meaning of Hearing Examiner Rule 9.5.

**FINDINGS OF FACT**

Based upon the preponderance of evidence presented at the hearing, the Hearing Examiner finds the following facts:

1. Property Identification. The subject property is located in the 5<sup>th</sup> Election District and located on the southeast corner of the MD 97 intersection with McKendree Road. It is referenced as Tax Map 0014, Grid 0011, Parcel 217 and known as 2892 McKendree Road (the Property).
2. Property Description. The 5.0-acre Property is improved with a one-story building located about 145 feet east of the paved edge of MD 97 and approximately 228 feet south of the paved edge of McKendree Road. There is a fenced outdoor exercise area on the north side of the building. The site is accessed from a driveway on McKendree Road, and this driveway lies about 340 feet from the MD 97/McKendree Road intersection. The 30-foot wide driveway extends south to a paved parking lot with approximately 20 spaces, then narrows beyond this parking lot and loops back to the north to the wide driveway for horse trailers. The remainder of the Property is predominantly open lawn. There are landscape buffers along the south and east sides of the Property and additional landscaping along MD 97 and McKendree Road. Topography is relatively flat, with the highest elevation along MD 97, which then drops only 14 feet to the east lot line.
3. Vicinal Properties. The B-1 (Business: Local) zoned northern property across McKendree Road is improved with the one-story Inwood Village Center shopping center. Behind the shopping center to the east, is an RC-DEO zoned wooded Preservation Parcel. Farther northeast is the McKendree Estates subdivision with two-story, single-family detached dwellings fronting Rolling Fork Way. To the east, the RR-DEO zoned Lot 6 of Parcel 217 is a 34- acre farm. The southern POR

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(Planned Office Research)/RR-DEO zoned Lot 1 of Parcel 217 is improved with a single-family detached dwelling located about 480 feet from the "loop" portion of the driveway and a large accessory farm building directly south of the Property. Across MD 97 to the west, Parcel 15 is the Board of Education-owned site of the Bushy Park Elementary School. To the northwest of the Property, at the northwest intersection, is the one-story, B-2 (Business: General) Glenwood Station shopping center.

4. Roads. McKendree Road has two travel lanes with a variable width within an 80-foot right-of-way (ROW). The posted speed limit is 30 MPH. The technical staff report (TSR) reports the estimated sight distance is about 400 to the west and more than 500 feet to the east. Per the TSR, there is no current traffic volume for McKendree Road in this location.

5. Water and Sewer Service. The Property is served by private well and septic.

6. The General Plan. The TSR reports the Property is designated "Low Density Development" on the PlanHOWARD2030 Designated Place Types Map. The PlanHOWARD2030 General Plan Transportation classifies McKendree Road as a Minor Collector.

7. Zoning History.

BA 06-007C. The Board of Appeals on January 17, 2007, granted petitioner Animal Medical Hospital at Glenwood a conditional use for an animal hospital, dog kennel, and pet grooming facility. Finding of Fact #8 states, "[t]he proposed kennel building is located approximately 129 feet from the west lot line along Maryland Route 97, approximately 200 feet from the south lot line, and distances greater than 200 feet from both remaining lot lines. The fenced outdoor exercise area is located approximately 129 feet from the west lot line along Maryland Route 97, approximately 246 feet from the south lot line and approximately 180 feet from the north lot line, and approximately 266 feet from the east side lot line.

The Hearing Examiner subsequently granted petitioner extensions of time to Petitioner to obtain a building permit and substantially complete all required improvements approved as part of the conditional use approval, pursuant to then HCZR § 131.1.3, and a phasing plan to allow the 2,880sf kennel/grooming building to be constructed first and used as an animal hospital. While this building was constructed, the

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two-year period to construct all buildings expired prior to the second building being built.

**Note:** BA 06-007C approved two buildings, a 10,800sf animal hospital building located approximately 200 feet from the south side lot line (Building 1 on the BA 17-009C CUP) and directly to the north, an approximately 2,880sf building (Building 2 on the BA 17-009C CUP). SDP-08-004, however, shows Building 2 as 3,744sf. The BA 17-008C CUP shows Building 2 as 3,680sf. Assuming the correctness of this information, Building 2 was enlarged without going through the conditional use approval process.

8. The Conditional Use Proposal. The Petitioner proposes to expand the approved conditional use as follows, based on the TSR.

- add a 10,800sf animal hospital (Building No. 1 on the conditional use plan), including a 1,600sf second floor storage and mechanical area
- expand the existing building to 4,931sf (Building No. 2 on the conditional use plan) for use as an animal hospital, kennel, and pet grooming
- add a new 20'x 70' outdoor exercise area, enclosed with a six-foot high solid white vinyl fence to be located approximately 129 feet from the west lot line.
- increase the number of employees up to 25 on-site at any time
- operate 24 hours per day, seven days per week
- provide a 47-space paved parking lot, located east of the two buildings
- locate the trash receptacle area on the east side of entrance driveway and enclose it with a six-foot high white vinyl fence

9. Agency Comments.

DPZ, Division of Public Service and Zoning Administration, through the TSR, recommends approval of the proposed conditional uses subject to petitioner relocating the outdoor exercise serving the Kennel and Pet Grooming use to be at least 150 feet from all lot lines and indicating the soundproofing mechanism in buildings where dogs are sheltered overnight.

Bureau of Environmental Health (BEH). BEH must review a building permit for the proposed structure (sic), including floor plans and proposed use. Prior to permit approval, the property must meet all Health Department requirements for the onsite well and sewage disposal system and area. BEH did not review the SDP redline and a portion of the proposed improvements overlap the sewerage area. A revision to the sewage disposal area may be necessary. Depending on the proposed use, an upgrade to the existing sewage disposal system and/or an increase in the sewage disposal area may be required.

10. Charles Crovo testified to not revising the conditional use plan (CUP) to locate the outdoor exercise area is at least 150 feet from all neighboring property lot lines because he

believes the road right-of-way (ROW) is not a "neighboring property lot line." He testified the MD 97 roadbed and ROW establish the necessary distance. He also testified the approved SDP showed a 129±-foot setback for the outdoor exercise area.

11. As Stuart Scheinberg testified, only a small number of dogs would be exercised outdoors at any time in the outdoor exercise area. He believes limiting the number of dogs to two at one time would comply with the HCZR. The access to the exercise area would be through the kennel structure.

12. Dr. Scheinberg also requested the construction of Building 1 and the expansion of Building 2 be phased and that he be given the discretion to determine which building would be constructed/expanded first. He explained the building to be constructed first would depend on whom he first partners with for the expansion of the use. He also testified that all buildings where dogs will be kept overnight would be soundproofed in the same manner as the existing building.

## **CONCLUSIONS OF LAW**

### **I. A Preliminary Matter – Exercise Areas & Setbacks**

In 2007, then HCZR § 131.N.30.a(4) authorized the Hearing Authority to reduce the 200 hundred-foot setback for "pens or runs" (which at that time arguably included outdoor exercise areas) to no less than 100 feet. Thus, in BA 06-007C, the Board of Appeals on appeal from the Hearing Examiner's denial granted the petition where the CUP proposed a fenced outdoor exercise area to be set back about 129 feet from the west lot line along Maryland Route 97.

The 2013 Comprehensive Zoning Process amended then HCZR § 131.O.N.30, Kennels and Pet Grooming Establishments, to impose greater setbacks and made applicable to outdoor

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training and exercise areas. Then HCZR § 131.0.N.30.a(4), which still imposed a 200-foot setback for the land use category, authorized the Hearing Authority to reduce the 200-foot setback up to no less than 150 feet, subject to a finding of no adverse impact.

The BOA 17-009C CUP shows the outdoor exercise area about 129 feet from the west lot line. Having reviewed the legislative history of now HCZR § 131.0.N.31.a(4), the HCZR § 103.0 definition of "setback", and the term "neighboring properties", the Hearing Examiner concludes she may not approve the proposed 129-foot setback based on Mr. Crovo's interpretation. HCZR § 103.0 defines "setback" so:

*Setback: The distance between a structure or use and a boundary such as a lot line, project boundary, right-of-way line, or zoning district boundary. A setback is measured as the shortest horizontal distance between the project boundary and the nearest point of the use, structure or projection thereof. Where these Zoning Regulations require a minimum setback from a zoning district or right-of-way, and the property subject to the setback does not abut or adjoin the zoning district or right-of-way, the required setback is measured across the intervening properties. For lots that front directly on a public road, the setback is measured from the ultimate right-of-way of the public road as determined by the Howard County Design Manual Volume III, Roads and Bridges, or the State Highway Administration, Highway Needs Inventory.*

Emphasis added. The bulk regulation controlling the potential reduced setback is the lot line setback, not the distance to a neighboring property. Also to be considered is HCZR § 130.0.B.5.

[N]o variance be granted to the minimum criteria established in Section 131.0 for Conditional Uses except where specifically provided therein or in an historic district. Nothing herein shall be construed to prevent the granting of variances in any zoning district other than to the minimum criteria established in Section 131.0.

In this petition, Petitioner is effectively and impermissibly requesting a variance from the potential 150-foot reduced setback authorized in HCZR § 131.0.N.31.a(4). The Hearing Examiner's evaluation of the CUP's compliance with this standard is evaluated in Part III supra.

## **II. General Criteria for Conditional Uses (§ 131.0.B)**

HCZR §§ 131.0.B.1-3 require the Hearing Authority to evaluate whether a proposed Conditional Use through the application of three standards, harmony with the General Plan, overall intensity and scale of use, and adverse impacts.

### **A. Harmony and Intensity of Use**

**1. The proposed Conditional Use plan will be in harmony with the land uses and policies in the Howard County General Plan which can be related to the proposed use.**

This mandate is reflected in the language of § 131.0.B.1, where the "harmony with the General Plan" standard is clarified to mean that the evaluation of a conditional use plan under the "in harmony with" the General Plan standard shall be premised on land uses and policies that can be "related to the proposed use."

PlanHOWARD2030 designates the Property as "Low Density Development" on the Designated Place Type Maps. Animal hospitals, dog kennels, and pet grooming facilities are presumptively compatible in Rural Resource Areas absent specific Plan policies that such institutional or assembly uses in these areas are inharmonious. The petition accords with § 131.0.B.1.

**2. The nature and intensity of the use, the size of the site in relation to the use, and the location of the site with respect to streets giving access to the site are such that the overall intensity and scale of the use(s) are appropriate for the site.**

Subject to the condition of approval that the outdoor exercise area be relocated or reduced in size to comply with the 150-foot setback, the Hearing Examiner finds the animal hospital, dog kennel, and pet grooming facility will predominately occur indoors. The outdoor

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exercise area will be contained by a six-foot high solid white vinyl fence. The overall intensity and scale of the use is appropriate for the 5.0-acre Property and the existing access from McKendree Road. The petition accords with § 131.0.B.2.

**B. Adverse Impacts**

Unlike HCZR §§ 131.0.B.1 & 2, which concern the proposed use's harmony or compatibility with the General Plan and the on-site characteristics of the proposed use, compatibility with the neighborhood is measured under § 131.0.B.3's six, off-site "adverse effect" criteria: (a) physical conditions; (b) structures and landscaping; (c) parking areas and loading, (d) access, (e) impact on environmentally sensitive area; and (f) impact on the character and significance of historic sites.

Inherent in the assessment of a proposed conditional use under these criteria is the recognition that virtually every human activity has the potential for adverse impact. The assessment therefore accepts some level of such impact in light of the beneficial purposes the zoning body has determined to be inherent in the use. Thus, the question in the matter before the Hearing Examiner is not whether the proposed use would have adverse effects in the RR and RC (Rural Conservation) zoning districts. The proper question is whether there are facts and circumstances showing the particular uses proposed at the particular location would have any adverse effects above and beyond those inherently associated with such a special exception [conditional] use irrespective of its location within the zones. *People's Counsel for Baltimore County v. Loyola College in Maryland*, 406 Md. 54, 956 A.2d 166 (2008); *Schultz v. Pritts*, 291 Md. 1, 432 A.2d 1319 (1981); *Mossburg v. Montgomery County*, 107 Md. App. 1, 666 A.2d 1253



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(1995). For the reasons stated below, and as conditioned, Petitioner has met its burden of presenting sufficient evidence under HCZR § 131.0.B.3 to establish the proposed uses will not have adverse effects on vicinal properties beyond those ordinarily associated with animal hospital, kennel conditional use in the district.

**3. The proposed use at the proposed location will not have adverse effects on vicinal properties above and beyond those ordinarily associated with such uses. In evaluating the proposed use under this standard, the Hearing Authority shall consider whether or not:**

**a. The impact of adverse effects such as, but not limited to, noise, dust, fumes, odors, intensity of lighting, vibrations, hazards or other physical conditions will be greater at the proposed site than it would generally be elsewhere in the same zoning district or other similar zoning districts.**

The hospital, dog kennel, and pet grooming facility will occur indoors predominately and are not likely to create adverse effects subject to all conditions of approval. There is no evidence of atypical adverse effects such as noise, dust, fumes, odors, vibrations, increased lighting, hazards, or other physical conditions that would be greater at the subject site than generally elsewhere. The petition accords with § 131.O.B.3.a.

**b. The location, nature and height of structures, walls or fences, and the nature and extent of the existing and/or proposed landscaping on the site are such that the use will not hinder or discourage the development and/or use of adjacent land and structures more at the subject site than it would generally elsewhere in the same zoning district or other similar zoning districts.**

Owing to distance, existing and proposed landscaping, the proposed structure, addition, and outdoor exercise fence are appropriately located (when relocated or reconfigured) and screened from adjoining property owners so as not hinder or discourage the development of adjacent land and structures. The petition accords with § 131.O.B.3.b.

**c. The number of parking spaces will be appropriate to serve the particular use. Parking areas, loading areas, driveways and refuse areas will be appropriately located and buffered or screened from public roads and residential uses to minimize adverse impacts on adjacent properties.**

For the Animal Hospital, HCZR § 133.0 requires four parking spaces per 1,000sf of floor area. There are no parking requirements for the Kennel/Pet Grooming uses. The BA 06-007C Conditional Use plan was approved with 32 parking spaces, which equates to 2.33 parking spaces per 1,000sf of floor area. The CUP in this petition shows 47 parking spaces for the 15,731sf facility or 2.98 parking spaces per 1,000sf. The TSR reports 47 parking spaces should be sufficient, since the longer-term parking will be for employees. The driveway location was found to be appropriately located in the previous Conditional Use case. The trash receptacle area will be screened from roads and residential uses by a gated fence. The petition accords with § 131.0.B.3.c.

**d. The ingress and egress drives will provide safe access with adequate sight distance, based on actual conditions, and with adequate acceleration and deceleration lanes where appropriate. For proposed Conditional Use sites which have driveway access that is shared with other residential properties, the proposed Conditional Use will not adversely impact the convenience or safety of shared use of the driveway.**

The driveway location was found to be located appropriately in the previous Conditional Use case. The petition accords with § 131.0.B.3.d.

**e. The proposed use will not have a greater potential for adversely impacting environmentally sensitive areas in the vicinity than elsewhere.**

There are no off-site environmentally sensitive areas near the Property. The petition accords with § 131.0.B.3.e.

**f. The proposed use will not have a greater potential for diminishing the character and significance of historic sites in the vicinity than elsewhere.**

The closest existing historic site is the Mount Gregory United Methodist Church (HO-276), which is located approximately 0.36 miles to the north, on the east side of MD 97. The proposed

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development will not diminish the character of this historic site. The petition accords with § 131.O.B.3.f.

**II. Specific Criteria for Animal Hospitals (§ 131.O.N.4)**

A Conditional Use may be granted in the RC and RR Districts for an animal hospital in the RC or RR Districts, provided that:

**a. The following criteria apply if outside pens or runs for dogs are included. They do not apply to paddocks for horses or other farm animals:**

**(1) They will be at least 200 feet from any lot line and screened from roads and residential properties, except that an outdoor exercise area may be established adjoining the principal animal hospital building provided that it is of a reasonable size, is enclosed by a solid privacy fence, is at least 30 feet from any lot line, and is only operated when there is an employee in attendance within the outdoor exercise area; and**

**(2) The hours of operation of the pens, runs, and/or outdoor exercise area will be established by the Hearing Authority.**

No outdoor pens or runs are proposed. The proposed outdoor exercise area adjoins the Kennel/grooming/animal hospital building, will be enclosed by a solid fence, and is over 30 feet from a lot line. An employee will be in attendance within the outdoor exercise area when dogs are there. The proposed 24-hour operation is approved. The petition accords with §§ 131.O.N.4.a(1) & (2).

**b. Buildings where dogs are sheltered overnight will be located or soundproofed so that inordinate noises are not detectible at the lot lines overnight.**

All buildings where dogs are sheltered overnight will be soundproofed in the same manner as the existing building. The petition accords with § 131.O.N.4.b.

**c. Disposal of wastes will be such that odors or other emissions are not perceptible at lot lines.**

The dumpsters for waste will be located at least 100 feet from property lines and screened by a vinyl enclosure. The petition accords with § 131.O.N.4.c.

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d. The road access to the use shall not be from a local road internal to a cluster subdivision and the driveway access to the use shall not be a shared driveway.

McKendree Road is a minor collector and the driveway will not be shared with other uses.

The petition accords with § 131.O.N.4.d.

e. The use is located on a lot or parcel that is three acres or larger.

The Property is 5 acres. The petition accords with § 131.O.N.4.e.

f. On an ALPP purchased or dedicated easement property, the following additional criteria are required:

- (1) The use shall not interfere with farming operations or limit future farming production.
- (2) Any new building or building addition associated with the use, including any outdoor storage and parking area shall count towards the cumulative use cap of 2% of the easement.

The Property is not subject to an ALPP purchased or dedicated easement. This section does not apply.

**III. Specific Criteria for Kennels and Pet Grooming Establishments (§ 131.O.N.31)**

A Conditional Use may be granted in the RC, RR or R-20 Districts for kennels or pet grooming establishments, and in the B-I District for kennels, provided that:

a. For kennels housing or training eleven or more animals at one time, the following requirements shall apply:

(1) Minimum lot size... 5 acres

The Property is 5 acres. The petition accords with § 131.O.N.31.a(1).

(2) Minimum setback for outdoor training and exercise areas and outside pens and runs from any lot line... 200 feet

(3) Minimum structure setback

(a) From public street right-of-way... 100 feet

(b) From any other lot line... 200 feet

(4) The Hearing Authority may reduce the 200 foot setback from lot lines for structures and outdoor training and exercise areas and outside pens or runs to a distance no less than 150 feet if it finds that the setback reduction will not adversely affect neighboring properties due to visual impact, noise, dust, odors or other causes, and that the outdoor training area, pen, run or structure will be

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located at least 200 feet from existing dwellings on different lots. Outside pens and runs and outdoor training and exercise areas for which this setback reduction is approved shall be enclosed by solid fences or walls.

Surrounding properties are improved with nonresidential uses. The closest dwelling sits about 500 feet from the exercise area and the exercise area will be enclosed by a solid fence. The proposed facility complies with all requirements of these criteria, except the outdoor exercise located less than 200 feet from the MD 97 lot line. As a condition of approval, Petitioner shall reconfigure/relocate this area to be no less than 150 feet from the west and north property lines abutting arterial/collector roads. Subject to this approval condition, the petition accords with §§ 131.O.N.31.a(2), (3), and (4).

**b. For pet grooming establishments not located completely within a residence, or for kennels housing or training no more than eight animals at any one time, the following requirements shall apply:**

**(1) Minimum lot size... 3 acres**

**(2) Minimum setback for outdoor training and exercise areas and outside pens and runs from any lot line... 150 feet**

**(3) Minimum structure setback:**

**(a) From public street right-of-way... 75 feet**

**(b) From any other lot line... 100 feet**

The Property is 5 acres. The proposed facility complies with all requirements of these criteria except the new outdoor exercise area to be located less than 150 feet from the west property line. As a condition of approval, Petitioner shall redesign/relocate this area to be no less than 150 feet from the west and north lot lines. Subject to this approval condition, the petition accords with § 131.O.N.31.b.

**c. For pet grooming establishments in which all business activities take place within a residence, the minimum lot size shall be one acre.**

This section does not apply because the pet grooming establishment will not be operated within a residence.

**d. All parking areas and outside pens and runs, and as appropriate, all buildings shall be screened by landscaping or other suitable means from adjoining properties and public street rights-of-ways.**

The CUP and Landscape Plan indicate existing and proposed landscaping screening for parking areas and buildings. No outside pens and runs are proposed. The petition accords with § 131.O.N.31.d.

**e. Disposal of wastes must be such that odors or other emissions are not perceptible at lot lines.**

Dumpsters will be located at least 100 feet from all property lines and screened by a vinyl enclosure. The petition accords with § 131.O.N.31.e.

**f. The lot shall have frontage on and direct access to a collector or arterial road designated in the General Plan.**

The Property fronts on and has direct access to McKendree Road, a Minor Collector Road. The petition accords with § 131.O.N.31.f.

**g. On an ALPP purchased or dedicated easement property, the following additional criteria are required:**  
**(1) The use shall not interfere with farming operation or limit future farming production.**  
**(2) Any new building or building addition associated with the use, including any outdoor storage and parking area shall count towards the cumulative use cap of 2% of the easement.**

The Property is not subject to an ALPP purchased or dedicated easement. This section does not apply.

**ORDER**

Based upon the foregoing, it is this **2<sup>nd</sup> day of August 2017**, by the Howard County Board of Appeals Hearing Examiner, **ORDERED:**

That the Conditional Use petition of S&C Realty, LLC & Animal Medical Hospital at Glenwood, Inc. to expand an approved conditional use for an animal hospital, dog, kennel, and pet groom facility in an RR-DEO (Rural Residential - Density Exchange Option), zoning district is hereby **GRANTED**;

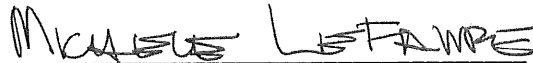
**Provided, however, that:**

1. The Conditional Use shall be conducted in conformance with and shall apply only as described in the petition, and as depicted on the Conditional Use Plan submitted with the petition, subject to all the conditions of approval in this Order section, and not to any other activities, uses, or structures on the Property.
2. As a condition of approval, Petitioner shall reconfigure/relocate the outdoor exercise area shown on the Conditional Use Plan as located about 129 feet from the MD 97 right-of-way to be no less than 150 feet from the west and north property lines abutting arterial/collector roads.
3. The redline Site Development Plan shall contain a note referencing this Decision and Order and listing all conditions of approval in this Order section.
4. Activities taking place on the Property must be limited to those described in the Petitioners' testimony and written evidence.
5. Petitioner shall comply with all federal, state, and local laws and regulations.
6. Petitioner shall obtain all required permits.
7. Petitioner shall obtain a building permit for the construction of either Building 1 or the Building 2 addition within two years of the date of this Decision and Order.
8. Petitioner shall obtain all building permits within four years of the date of this decision and order.

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9. All buildings where dogs are sheltered overnight will be soundproofed in the same manner as the existing building.

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HEARING EXAMINER**

A handwritten signature in black ink, appearing to read "Michele L. LeFaivre", written over a horizontal line.

Michele L. LeFaivre

**Date Mailed:** \_\_\_\_\_

**Notice:** A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.